

**Statement of  
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National Landscape Conservation System  
Bureau of Land Management  
House Committee on Natural Resources  
H.R. 2632, Sabinoso Wilderness Act,  
H.R. 3682, California Desert and Mountain Heritage Act,  
H.R. 2334, Rocky Mountain National Park Wilderness and  
Indian Peaks Wilderness Expansion Act  
November 13, 2007**

Thank you for inviting me to testify on H.R. 2632, the Sabinoso Wilderness Act, H.R. 3682, the California Desert and Mountain Heritage Act, and H.R. 2334, Rocky Mountain National Park Wilderness and Indian Peaks Wilderness Expansion Act. The Department strongly supports Congressional efforts to resolve wilderness designations throughout the West, and we welcome this opportunity to further those efforts. Only Congress can determine whether to designate Wilderness Study Areas (WSAs) as wilderness or release them for other multiple uses. We support the resolution of WSA issues and stand ready to work with Members of Congress toward this goal.

**H.R. 2632, Sabinoso Wilderness Act**

The Department of the Interior supports H.R. 2632, a bill designating 19,880 acres of BLM-managed land in northwestern New Mexico as the Sabinoso Wilderness area. The Sabinoso area provides a rugged and dramatic landscape. Deep sinuous canyons are interspersed with flat-topped mesas in an area that has changed little over the last several hundred years. While there is both archaeological and historical evidence of sporadic human visitation, the rough nature of the terrain has discouraged all but the hardiest. Today, the canyons and mesas are home to mule deer, elk, mountain lion, and wild turkey. Golden eagles and turkey vultures soar off the thermals rising from sandstone canyon walls.

The BLM is currently working with the state on a land exchange which would result in the acquisition of state land inholdings within the proposed wilderness. This process should be completed within a year. We also are in discussions with private landowners in the area about acquiring either conservation easements or fee title of some of the private inholdings. The BLM only explores such options from willing landowners.

Congressman Udall has worked with the local community to reach consensus on the proposed designation. The New Mexico House of Representatives and San Miguel County, New Mexico have passed resolutions in support of wilderness designation of Sabinoso. We would like the opportunity to work with Congressman Udall and the subcommittee to resolve a few technical errors on the map referenced in the legislation, which we prepared at Congressman Udall's request.

### **H.R. 3682, California Desert and Mountain Heritage Act**

H.R. 3682 designates wilderness throughout Riverside County, California on lands managed by the BLM, National Park Service (NPS) and Forest Service. It also expands the BLM and Forest Service-managed Santa Rosa and San Jacinto Mountains National Monument (designated by Public Law 106-351) as well as designates a number of Wild and Scenic rivers under the management of the Forest Service. The Department of the Interior supports H.R. 3682 as it applies to BLM and NPS designations but would like the opportunity to work with the subcommittee on a number of clarifications, including acreage and mapping adjustments. We defer to the Department of Agriculture on those designations on National Forest System lands.

H.R. 3682, as introduced, includes acreage numbers that do not match area descriptions or the maps provided to the sponsors by the Department. We are working with the sponsor and the subcommittee to make appropriate corrections. Our discussions of the bill in this testimony will reflect the updated acreage numbers.

Title I designates four new wilderness areas: Beauty Mountain and Pinto Mountains Wilderness to be managed by the BLM as well as Cahuilla Mountain and South Fork San Jacinto Wilderness to be managed by the Forest Service.

The proposed new Beauty Mountain Wilderness would cover over 15,000 acres of BLM-managed lands. It is one of the last undeveloped areas in the region; numerous outside groups recognize both its significance as open space and the important resource values of Beauty Mountain. We should note that the boundary for Beauty Mountain is arbitrarily set at the Riverside County line. The second new BLM wilderness area, Pinto Mountains wilderness, lies just to the north of the National Park Service's Joshua Tree National Park and wilderness. Much has changed in these areas during the last 15 years. In 1994, the California Desert Protection Act changed the management landscape in the entire California desert. That same year, much of the area was designated as critical habitat for the threatened desert tortoise. This area is important habitat for the desert bighorn sheep. Many inholdings have been acquired by the State, private groups, or BLM that made this area more manageable and enhanced their wilderness characteristics. Far fewer mining claims exist in the area than were there 15 years ago. These areas are currently primarily non-motorized.

In addition, Title I expands six existing wilderness areas that were designated under Public Law 103-433 the California Desert Protection Act and earlier wilderness bills: Agua Tibia, Orocopia Mountains, Palen/McCoy, and Chuckwalla Mountains Wilderness managed by the BLM; Joshua Tree National Park Wilderness managed by NPS; and additions to the Santa Rosa Wilderness within Santa Rosa and San Jacinto Mountains National Monument managed by both the BLM and the Forest Service. The expansions, which will improve manageability, protect important resource values and improve dispersed recreational opportunities, range from a mere 500-acre addition to the existing Agua Tibia Wilderness to a large 23,000-acre addition to the Palen/McCoy Wilderness. Other additions include 5,000 acres to the Orocopia Mountains Wilderness and 13,000 acres to the Chuckwalla Mountains Wilderness. These expanded wilderness designations are possible now because of acquisitions of land by the BLM and changes in on-the-ground conditions that have occurred since the original wilderness designations.

Within the boundary of Joshua Tree National Park, section 102(f) of H.R. 3682 designates 36,800 acres of land in non-contiguous parcels as wilderness. All of these lands are wilderness quality. Of these acres, about 8,400 acres were designated only as potential wilderness as part of the original wilderness designation for Joshua Tree National Park in 1976 (Public Law 94-567), because they were privately owned or used for non-wilderness purposes. The lands now are owned by the National Park Service and are appropriate for wilderness designation. Another 28,400 acres, owned by the National Park Service, are located in a roadless area west of the Cottonwood Entrance. A draft study conducted by the National Park Service supports wilderness designation for these lands.

Section 103 of H.R. 3682 designates as potential wilderness approximately 43,100 acres of land along the park's southwestern boundary. This area is physically inaccessible and has no available water source. As such, the park already is managing this area as wilderness. About one-third of the acreage is in private ownership, and the National Park Service has been working to acquire these lands with donated funds, on a willing-seller basis. While we recognize the Congress' authority to designate this area as potential wilderness, we would like to work with the sponsor and the subcommittee to further clarify some ambiguities in this section.

Finally, Title III of H.R. 3682 expands the boundary of the Santa Rosa and San Jacinto Mountains National Monument by approximately 8,360 acres, designating 2,990 of those acres as wilderness inside the monument. Santa Rosa and San Jacinto Mountains National Monument was originally designated by Public Law 106-351. Since then, the communities, agencies, and other interested members of the public in the Coachella Valley have strongly embraced the Monument and take great pride in their many achievements towards making the Monument a success story. The Santa Rosa and San Jacinto Mountains National Monument Advisory Committee fully participated in the development of a management plan that is now in the implementation phase. We support this proposed expansion, which would enhance manageability of the monument and expand protection of important habitat for the endangered Peninsular bighorn sheep.

H.R. 3682 is a result of a multi-year process undertaken by Congresswoman Bono and other members of the California Congressional delegation. This public process included engaging elected officials, interest groups, local communities, and the affected land managing agencies. We appreciate these efforts as we believe that local input and consensus-building are essential ingredients to successful wilderness bills. As this bill moves forward, we look forward to the opportunity to work with the Committee on the corrections and amendments discussed in this testimony and to ensure that the maps most accurately reflect the intended boundaries.

#### **H.R. 2334, Rocky Mountain National Park Wilderness and Indian Peaks Wilderness Expansion Act**

The Department of the Interior cannot support H.R. 2334 unless amended to address our concerns regarding the provisions related to the Grand River Ditch as described in this testimony. The Department presented the same position in testimony on S. 1380, an identical bill, at a hearing held before the Senate Subcommittee on National Parks on July 12, 2007. The Department also testified in support of a similar bill, S. 1510, at a hearing held before the Senate

Subcommittee on National Parks on April 6, 2006. That bill did not contain the Grand River Ditch provisions. We defer to the U.S. Department of Agriculture on lands affecting the U.S. Forest Service.

H.R. 2334 would designate approximately 249,339 acres of Rocky Mountain National Park's backcountry in the National Wilderness Preservation System. This represents approximately 95% of the park's total acreage, lands that currently are managed as wilderness. In addition, H.R. 2334 would exclude lands occupied by the Grand River Ditch from wilderness, change the liability standard for future damage to park resources resulting from operation and maintenance of the ditch, enable the Water Supply and Storage Company to convert its Grand River Ditch water rights to other uses, make adjustments to the Indian Peaks Wilderness and Arapaho National Recreation Area, both administered by the U.S. Forest Service, and give the National Park Service (NPS) the authority to lease the Lieffer tract.

In 1964, Congress designated Rocky Mountain National Park as a wilderness study area. In 1974, President Nixon recommended to Congress 239,835 acres for immediate designation and 5,169 acres for potential designation as wilderness in the park. The increased acreage amount included in H.R. 2334 is based on modifications brought about by land acquisition and boundary adjustments since 1974.

Present road, water, and utility corridors, and all developed areas, are excluded from recommended wilderness. Wilderness designation would not alter any current visitor activities or access within the park, and would allow visitors to utilize the park in the same ways and locations that they presently enjoy.

Federal reserved water rights for park purposes are not an issue related to wilderness designation as water rights for the park have been adjudicated through the State of Colorado water courts. Consequently, no water rights claims for wilderness purposes are needed or desired by the NPS.

After holding public meetings on the proposed designation in June 2005, the gateway communities of Estes Park and Grand Lake, and the counties of Grand and Larimer, endorsed wilderness designation for Rocky Mountain National Park, subject to specific boundary modifications on the west boundary of the park. These modifications, which have been incorporated in H.R. 2334, would provide an area of non-wilderness around the Town of Grand Lake in order to ensure that the park could continue to actively manage hazardous fuels and other uses that might affect the Town. The proposed modifications would also reserve a corridor along the east shore of Shadow Mountain and Granby reservoirs for the possible construction of a non-motorized hike/bike trail, which would be subject to normal NPS planning processes including analysis under the National Environmental Policy Act.

In addition to excluding lands occupied by the Grand River Ditch from wilderness, H.R. 2334 would allow for a change in the liability standard for future damage to park resources resulting from operation and maintenance of the ditch, as long as the ditch is operated and maintained in accordance with an operations and maintenance agreement between the NPS and the ditch's owners. This provision would alter the protections to park resources under the Park System Resource Protection Act (16 U.S.C 19jj) which holds any person who causes injury to park

resources liable to the United States for response costs and damages, except in certain circumstances such as an act of God or actions by a third party.

In 1907, and again in 2000, the owners of the ditch, the Water Supply and Storage Company, agreed to a stipulation, in return for a valuable right-of-way across public land and a stipulated water rights agreement, that requires them to pay the United States for any and all damage sustained by use of the right-of-way regardless of the cause and circumstances.

Altering these protections to a more lenient negligence standard for the Grand River Ditch, as proposed by H.R. 2334, could have serious implications for future damage causing events resulting from the operation of the Grand Ditch within park boundaries. Changing that standard to a general liability standard would require the NPS to expend scarce financial resources to prove negligence. In cases where negligence could not be proven, the United States would pay for response and repair costs associated with damage caused by operation of the ditch. This could set a dangerous precedent for all national parks and other public lands with implications far beyond the boundaries of Rocky Mountain National Park. Also, to retroactively change the 1907 stipulation would negate a century-old agreement that the ditch's owners have twice agreed to in exchange for valuable consideration it has received, the right-of-way itself and the 2000 stipulated water rights agreement.

As proposed in H.R. 2334, an operations and maintenance plan for the ditch is clearly needed. However, it must be comprehensive in scope and enforceable and should not be tied to a change in the liability standard for the ditch. We believe that an effective plan must contain provisions that reduce the risk of catastrophic failure of the ditch (as occurred in 2003) that could injure park visitors and staff and harm critical park resources. The plan should also establish clear expectations regarding maintenance and operational issues that impact park operations. Such a plan, if fully implemented by the operators of the ditch, should reduce the likelihood of future breaches or damage causing events, which we believe is in the interest of all parties and should negate the perceived need for a change in liability protection for the park.

H.R. 2334 also proposes to grant an exemption to the Water Supply and Storage Company from the requirement in its original right-of-way grant that the primary purpose of the ditch is for irrigation or drainage. This proposed change would enable the Company to convert its Grand River Ditch water rights to other uses, such as municipal use, without risking forfeiture of the ditch right-of-way, which could represent a significant increase in the value of the water rights for the shareholders of the Water Supply and Storage Company.

The provisions of H.R. 2334 related to the Grand Ditch go beyond ensuring that ditch operations are not affected by the designation of wilderness and grant the owners of the ditch significant privileges and exemptions from existing law and prior agreements with the United States and a potential windfall by allowing a change in use of the water. We would be happy to work with the Committee on amendments to the bill to address our concerns related to the operations of the Grand Ditch.

Finally, H.R. 2334 would give the NPS the authority to lease the Lieffer tract. This 12 acre tract is located outside the boundary of Rocky Mountain National Park, was donated to the park, and lends itself to leasing to educational institutions or other similar entities.

**Conclusion**

Thank you for the opportunity to testify. We support the efforts of Congress to resolve the wilderness issues. I will be happy to answer any questions.